



**Testimony for the Health and Government Operations
Committee**

**HB 863- Public Health – Chief Medical Examiner – Corrections
to Autopsy Findings and Conclusions**

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FAVORABLE WITH AMENDMENTS

GREGORY BROWN
PUBLIC POLICY
COUNSEL

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

3600 CLIPPER MILL
ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
F/410-366-7838

WWW.ACLU-MD.ORG

OFFICERS AND
DIRECTORS
HOMAYRA ZIAD
PRESIDENT

DANA VICKERS
SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland urges a favorable report, with amendments, on HB 863, a bill that would expand the time that a person in interest may request the medical examiner correct findings and conclusions on the cause and manner of death. Maryland families who lost their loved ones to violence while in the custody of the state which was not properly documented as contributing to manner of death – continue to be hamstrung by the current 60-day limit to request the correction of findings and conclusions. The current limit is simply not enough time for grieving family members to obtain the autopsy report, understand it, and assess whether they have concerns that rise to the level of requiring review.

Autopsies will generally include factual conclusions about what happened to the individual as well as fairly technical medical information. The medical information and conclusions these grieving families receive can be hard to make sense of and it is often the case that only after a medical doctor or specialist reviews the information that a family learns of the possible significance, or insignificance, that the information can reveal about their loved one's true cause of death. Particularly in Maryland, where longstanding failures to accurately conclude manners of death in the OCME have led to a statewide audit, the very least we can do is give grieving families enough time to obtain all of the requisite information they need in order to assert their rights.

The statewide audit was prompted by evidence that former Maryland Chief Medical Examiner, Dr. David Fowler adopted a practice of departing from professional standards in order to label deaths of Black

Marylanders who died in custody of police or other officials as “accidental” or “undetermined” rather than homicides.¹ His tenure came under scrutiny after implausibly testifying for the defense in the Derek Chauvin murder trial that George Floyd died due to heart disease, with fentanyl as a contributing factor, as well as similar assertions in the case of Marylander Anton Black.² Following his erroneous testimony former Attorney General Brian Frosh launched an investigation into his office after hundreds of physicians signed onto a letter demanding a review. The new Attorney General has continued the review of the autopsies of 100 in-custody deaths.

Amendment

The ACLU of Maryland proposes that HB 863 be amended to extend the time limit to request the Office of the Medical Examiner for corrections to findings and conclusions to one (1) year. ³While extending the time limit to 180 days is a step in the right direction, extending the limit to a year would better serve grieving families in navigating the autopsy review process. Family members are routinely denied access, or are very significantly delayed in accessing police reports, witness statements, and body camera or other video footage that may capture their loved ones' last moments. It can take months after the incident before the family has the requisite materials, and medical counsel, to make the decision to request a correction to findings. Extending the limit to a year would also align the Office with the minimum time limit on police investigations of certain crimes, another resource families may need to get the full story on the circumstances surrounding their loved ones' death.

¹ <https://www.marylandmatters.org/2022/10/19/md-to-review-100-in-custody-deaths-as-audit-into-former-medical-examiner-continues/>

² *Id.*

³ This bill would have no effect on the 100 cases being reviewed by the Office of the Attorney General

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